



2. Defendants hereby make this offer of judgment with regard to all claims made by Plaintiff save and except those claims made in Count V of Plaintiff's Amended Complaint. This offer is being made more than ten days before trial as required by FED. R. CIV. P. 68(a); *Ramming v. Natural Gas Pipeline Co.*, 390 F.3d 366, 370 (5th Cir. 2004).

## **II. Offer of Judgment**

3. Defendants collectively offer the sum total of SIX HUNDRED THOUSAND and 00/100 DOLLARS, (\$600,000.00) which sum shall include all potential claims of Plaintiff for costs and attorney's fees, for which judgment may be entered on Counts I, II, III, IV and VI of Plaintiffs Amended Complaint.

4. This offer is conditioned on Plaintiff's dismissal with prejudice of all claims against CIRRUS DESIGN CORPORATION alleged, or which could be alleged, under Counts I, II, III, IV, V and VI of Plaintiff's Amended Complaint. This offer is further conditioned on Plaintiff's dismissal with prejudice of all claims against UNIVERSITY OF NORTH DAKOTA AEROSPACE FOUNDATION and JEFFREY NELSON alleged, or which could be alleged, under Count V of Plaintiff's Amended Complaint.

5. Defendants agree to pay their costs accrued to date.

## **III. Deadline to Accept**

6. This offer of judgment will remain open and irrevocable for ten days after service. See FED. R. CIV. P. 68(a); *Ramming*, 390 F.3d at 370.

7. If plaintiff does not respond within ten days after service, the offer is considered withdrawn. FED. R. CIV. P. 68(b).

Respectfully submitted,

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COUNSEL FOR DEFENDANTS CIRRUS  
DESIGN CORPORATION, JEFFREY R.  
NELSON AND UNIVERSITY OF NORTH  
DAKOTA AEROSPACE FOUNDATION

**CERTIFICATE OF SERVICE**

I hereby certify that on January 16, 2009, I electronically filed the foregoing pleading with the Clerk of Court using the CM/ECF system which will send notification of such filings to the following:

Mr. Jack E. McGehee  
H.C. Chang  
McGehee ★ Chang  
1250 Wood Branch Park Drive, Suite 625  
Houston, Texas 77079

Mr. Oliver Beiersdorf  
Reed Smith LLP  
599 Lexington Avenue  
New York, New York 10022

and I hereby certify that on January 16, 2009 I delivered a copy of the foregoing pleading to the following non-registered participants:

None

/s/ Ron A. Sprague  
RON A. SPRAGUE